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December 30, 1999

The Honourable Doreen Hamilton
Minister Responsible for Saskatchewan Liquor and Gaming Authority
Room 30, Legislative Building
Regina, Saskatchewan

Dear Madam Minister:

By Ministerial Order dated April 23, 1999, you charged me with the task of reviewing and making recommendations on the granting of off-sale endorsements in Saskatchewan.

I have the honour of submitting my report as required by the appointment and the terms of reference.

In keeping with the terms of reference, I sought input from existing holders of off-sale endorsements in the four major cities, representatives of the hotel and brew pub industries, current applicants for off-sale endorsements, miscellaneous other individuals who indicated an interest to make representation as well as the Liquor and Gaming Licensing Commission. Given the vast diversity of parties consulted, a recommendation likely to be acceptable to them all is clearly not possible. Their various positions have, however, been considered. I am, in the end result, solely responsible for the reform proposal presented herein.

Respectfully,

Original signed by
MYRON GULKA-TIECHKO

Myron Gulka-Tiechko, M.A., LL.B.

ACKNOWLEDGMENT

I first acknowledge the willingness of industry players to bring forward their views and make representation with respect to the off-sale review. My report would not be possible without their full and frank discussion of views. Having previously worked with many of the industry representatives in my former role as Manager of the Licence Administration Branch of SLGA, it was an enjoyable opportunity to re-acquaint myself with many of the individuals and corporate entities involved.

I am indebted to my employer, SaskPower, for permitting me the secondment opportunity to undertake this review.

Finally, I am most indebted to my research assistant, Tanya Volk, who was indispensable in organizing the consultation schedule and pursuing research at my direction.

Myron Gulka-Tiechko

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Executive Summary

Over the past decade there has been no single liquor licensing issue to ignite as much controversy as the off-sale endorsement. The genesis of this was a 1989 decision to expand the category of taverns eligible for an off-sale endorsement, from the original hotel tavern alone, to a select number of brew pub taverns as well. The opening of the category to some brew pubs created a sense of vulnerability amongst many hotel tavern owners who had previously enjoyed a monopoly in this area. In addition, there was legitimate social responsibility concern surrounding the potential that a proliferation of off-sale endorsements could lead to a situation where some operators were prepared to bend the rules, particularly with respect to service to minors. This concern was grounded in the potential for less stringent enforcement ability by liquor inspectors and/or police services in a vastly expanded market.

In response to these pressures, the SLGA developed, first on a policy basis, and later entrenched in regulations, both population restrictions as well as distance restrictions as between new outlets with off-sales, in order to keep a lid on unbridled development of the brew pub category in particular. Over time, however, certain exemptions were created for the construction of new hotel taverns. Similarly, flexibility with respect to the distance requirement where "market conditions" warranted, was instituted to soften the impact of regulations.

The result of the regulatory regime which evolved, however, has proven to be frustrating to new applicants, some existing permittees, Authority staff, and the Liquor and Gaming Licensing Commission. Because of the limitations placed on numbers of outlets allowed, competitors in particular have used the system both to protect their own existing off-sale privileges and to block expansion by others. The result has been a considerable increase in Licensing Commission hearings often prompted by objections from competitors, followed by court challenges to both the Court of Queen's Bench and the Saskatchewan Court of Appeal. Those critical of the system see it as unpredictable with respect to outcomes and unsustainable in the long run. They see regulatory tools being used for the purpose of economic rationing rather than enforcing social responsibility.

In reviewing this situation, I have drawn on my own experience as a former senior manager of the SLGA, my own administrative law training as well as extensive consultations with applicants and existing industry players. The economic interests of the various parties involved, however, are irreconcilable.

In reflecting on an appropriate recommended course of action, I have chosen an option which would open the off-sale endorsement to all age-restricted hotel and brew pub taverns permitted in Saskatchewan. In summary, I recommend the following:

1. That the SLGA move quickly to develop, disseminate and enforce comprehensive criteria for the Brew Pub tavern category (production limits, percentage of sales, number of product lines available, etc).

This will ensure that brew pubs adhere to transparent and measurable criteria in order to retain their permit status.

2. That the off-sale endorsement be made available to all age-restricted hotel and brew pub taverns by amending Section 29 of The Alcohol Control Regulations, 1994 to delete current population caps and distance requirements (subsections 3 and 4 respectively).

This regulatory change will remove the SLGA from the role of economic gate keeper. It will allow the market to decide which operations are meeting the needs of consumers. It retains age-restricted taverns as the sole endorsement category, thus reinforcing societal concerns over inappropriate access of minors. By limiting the endorsement in this manner, unbridled proliferation is unlikely and existing inspection staff ought to be able to monitor regulatory compliance. A modest increase to inspection staff could be considered if future circumstances so warrant. Finally, the need for any extended transition period is minimized given that substantial overhead costs of both tavern types will likely limit significant expansion in the number of market entrants.

3. Amend Section 16 of The Alcohol and Gaming Regulation Act, at the next opportunity, to give discretion to the Licensing Commission not to force mandatory hearings to consider objections of a "frivolous and vexatious" nature by parties in the same competitor class as the applicant.

This is the approach which has been followed by the Ontario liquor regulatory body for a number of years. It prevents competitors from bringing forward procedural blocks designed to thwart market entry by potential rivals. It would leave untouched the right of members of the public to bring forward objections based on other concerns. It is anticipated that such an amendment will result in a marked decrease in application processing time, as well as the number and expense of regulatory hearings.

Introduction

The grant of off-sale endorsements has elicited intense market competition and equally intense legal wrangling for the greater part of the past decade. Applicants, permittees, and Authority staff alike are frustrated by seemingly endless, and most certainly costly, Commission hearings and court challenges.

The focus of debate are current regulations which establish parameters around how many off-sale premises are allowed in the major urban markets and where they should locate. Much of the controversy at hand stems from a decision in 1989 to allow brew pubs to join the category of premises eligible for the off-sale endorsement. Prior to that date, full service hotel taverns had enjoyed a near monopoly in that area.

A subsequent surge of interest in brew pub development produced pressure to expand the number of outlets with off-sale. This was met by sensitivity from hotel operators concerned with the eroding economic benefit to the existing system, as well as legitimate concern for the potential societal ills attendant on a proliferation of many new outlets where minors, in particular, would have potentially unfettered access to beverage alcohol off-sale.

In very general terms, two divergent views have evolved. Existing outlets with off-sale endorsements see the current system as advantageous. They would prefer that restrictions remain in place. New applicants, on the other hand, view the eligibility criteria as overly complex, unclear and unpredictable. They believe the system fosters the ability of competitors to block new applicants and force them into a variety of protracted dispute resolution processes designed at least in part to discourage new development.

Attempting to determine a fair balance amongst the needs and interests of the various parties is the objective of this report.

Background

In 1995 the Saskatchewan Liquor and Gaming Authority ("SLGA") implemented a substantial revision of its legislation and regulations. The key principles of that revision included the concepts of modernization, standardization, and social responsibility. The outcome of those changes was to update and re-categorize commercial outlets serving beverage alcohol into three primary categories:

1. Taverns, whose main focus was the service of beverage alcohol and where minors were prohibited;
2. Restaurants, whose main focus was the service of food and where minors were generally permitted to be present; and

3. Special use facilities, such as sporting facilities and community and recreational clubs, where minors could be present but subject to some degree of adult supervision.

An issue which remains outstanding from the 1995 legislative revisions, however, is that of the grant of off-sale endorsements. For a number of decades, the only facility which was licensed to serve beverage alcohol under age controlled circumstances was the hotel tavern. The prevailing theory behind this policy choice was that hoteliers, given the significant investment they had at stake, would be more likely to enforce regulations with respect to over service to customers, as well as service to minors. It was felt that the substantial overhead costs of hotel operations were a sufficient deterrent for breaching social responsibility regulations. A seven day suspension for a hotel tavern, for example, imposed a substantial hardship on a licensee. Over the years this approach had the desired effect of ensuring that the vast majority of outlets respected and enforced liquor service regulations.

In 1989, the provincial government allowed for the establishment of a limited number of brew pub operations in the province. Essentially, a small number of brew pubs were allowed to be licensed as taverns under age controlled circumstances, and under certain expectations of food service availability. The brew pub concept envisioned operators developing niche market varieties of brewed product which would be manufactured on site. In order to ensure the viability of this new hospitality alternative, however, the government of the day extended the right of these tavern operations to also off-sale domestic beer products. One might view this development as somewhat incongruous given the ostensible rationale for the brew pub initiative being the development of alternate on-site premium beer products. This apparent anomaly, however, has and continues to shape decisions around the grant of off-sale endorsements in Saskatchewan.

Over the past 10 years there has been continuous pressure from industry operators, as well as new entrants to the market, for expansion of the number of brew pubs allowed the off-sale endorsement. This has at least in part been driven by the perception that an attendant off-sale endorsement was a valued economic prize. Those pressures resulted in the expansion of the category of brew pub operations as well as expansion of the number of brew pub operators allowed to add the off-sale endorsement to their permit. In order to prevent a proliferation of such facilities, the Liquor and Gaming Authority, and the Liquor Licensing Commission before it, took a number of steps to impose boundaries on the number and location where such endorsements could be issued.

The effect of these regulatory steps was that existing hotel taverns and brew pubs were grandfathered with respect to continued eligibility for off-sale endorsement but other limitations put into place. Specifically, the ceiling for the number of brew pubs allowed an off-sale endorsement was set by regulation. For urban municipalities between the population size of 30,000 to 40,000, a ceiling of 7 off-sale endorsements was established. For the cities of Saskatoon and Regina, a quota of 1 per 12,000 population was enacted. In addition, a distance requirement as between new off-sale permittees was implemented. No new off-sale endorsements were allowed to facilities in Regina and Saskatoon that

were within 1.6 kilometres of an existing permitted premise. So as not to impose undue hardship on "new" hotel developments, however, these were exempted from the distance requirement by an additional regulatory term (but still subject to population caps). The Authority, on reflecting on the inflexibility of the distance requirement, initiated a further regulation change in 1996 which allowed the authority to soften the 1.6 kilometre distance requirement in circumstances where market conditions warrant an endorsement. (Section 29(4)(b))

The precise wording of Section 29 of The Alcohol Control Regulations, 1994, as it now stands is as follows:

"29(1) The authority, in its sole discretion, may make endorsements permitting the sale, in closed containers of the type and quantity contained in the endorsement for consumption off the permitted premises, of:

- (a) wine by a permittee who has been issued a restaurant permit, but only to a customer who has just consumed a meal in the permitted premises;
- (b) beer, wine and coolers by a permittee who has been issued a tavern permit other than a tavern permit issued respecting a nightclub;
- (c) beverage alcohol products manufactured by the permittee in the permitted premises and any beer, wine or coolers by a permittee who has been issued a tavern permit respecting a brew pub;
- (d) beverage alcohol by a permittee who has been issued a special use permit respecting a camp described in clause 15(i); or
- (e) beverage alcohol products manufactured by the permittee in the premises described in clause 12(b).

(2) Where the authority receives an application for an endorsement pursuant to subsection (1), the authority, in addition to any relevant considerations submitted by the applicant, shall consider the suitability of the location, operation and management of the permitted premises of the applicant and the type of business that the endorsement authorizes.

(3) Except for endorsements made pursuant to clause (1)(a) or (e) the maximum number of endorsements that the authority may make pursuant to subsection (1) for each urban and northern municipality of a specified population is set out in Table 1 of Appendix A.

(4) The authority shall not make an endorsement pursuant to subsection (1) to a permitted premises in Saskatoon or Regina that is within 1.6 kilometres of a permitted premises that has an endorsement pursuant to subsection (1) except:

- (a) in the case where a new hotel applies for an endorsement pursuant to subsection (1) and the authority considers it appropriate to make the endorsement;
 - (b) in the case where the permittee of permitted premises applying for the endorsement pursuant to subsection (1) had an existing Class "B" licence with an off-sale endorsement on the day prior to the coming into force of section 1 of The Alcohol and Gaming Regulation Amendment Act, 1994;
 - (c) where, in the opinion of the authority, market conditions warrant an endorsement; or
 - (d) where an applicant wishes to purchase a permitted premises that has an off-sale endorsement.
- (5) Subsection (4) does not apply to endorsements made pursuant to clause (1)(a).

Appendix A
Table 1
[Subsection 29(3)]
Off-sale Endorsements

<i>Population of Urban or of Northern Municipality</i>	<i>Maximum Number of Endorsements</i>
1- 2,500	1
2,501 - 5,000	2
5,001 - 10,000	3
10,001 - 20,000	4
20,001 - 30,000	6
30,001 - 40,000	7
40,001 - 80,000	8
80,001 - 100,000	10
10,001 plus	1 per 12,000 population

Although this maze of regulatory parameters has succeeded in keeping a cap on proliferation of endorsements, it has also resulted in a huge strain to the licensing system - to applicants, competitors, the SLGA, the Licensing Commission and the courts, (where a disproportionate number of licensing cases have ended up.) Rather than concentrating on enforcement of social responsibility concerns, the SLGA has been forced to focus an inordinate amount of resources in upholding the role of economic regulator.

Existing permittees with endorsements have viewed these rules as a guarantee of their exclusive right to continue a monopoly position and exclude newcomers. New applicants, on the other hand, understandably resent these rules, seeing them as artificial fetters to the market deciding which operations succeed or fail. They question the appropriateness of a liquor authority constricting competition. With the exception of

municipal zoning compliance, does government restrict the ability of gas stations, supermarkets or hardware stores to locate, in what number and in what proximity to their competitors?

The social responsibility argument is a legitimate concern put forward by those concerned with appropriate enforcement of societal norms. In an unlimited system, where off-sales became available at every permitted restaurant facility in a given city, for example, there would clearly be a statistical probability that at least a few of these operators would be lax on enforcing age restrictions. This would be so, particularly where there was a perception that the chances of being caught were low and the corresponding advantage of continuing such a practice high. Although I am not aware of specific scientific support in this area, my previous experience in licence administration with SLGA (1996, 1997) provided me with ample anecdotal examples of marginal operations where cash strapped owners flaunted liquor service rules to extract a few badly needed dollars. The inevitable pattern which develops is that minors, in particular, become aware of which establishments have a reputation for "bending" the rules. Short of almost full time liquor inspector or police surveillance (both being intrusive and expensive options) there is a limited societal ability to curtail such practices. The damage created from overservice and service to minors can have sweeping, long and short term, implications. Issues of convenience and availability must be weighed against a comprehensive set of other measures with a view to obtaining an appropriate balance.

From both an industry and regulatory point of view, the frustrations of the existing system have been significant. Legal challenges, with substantial associated expenses, have been numerous; applicants have faced delays in commencing operations; and industry operators have, generally, faced uncertainty with respect to how the endorsement approval process would ultimately play out. A very clear example of the pressures which have built is the recent Expression of Interest for two additional off-sale locations in Regina. In early 1999 the Authority, in an effort to fairly grant available off-sale endorsements in the City of Regina, sought to do so by way of an Expression of Interest publicized through the newspapers. This was felt to be preferable to simply granting the endorsement to the next two applicants in time who applied. Although only two off-sale endorsements were available, given current regulatory restrictions, 20 applicants came forward with an interest in obtaining an off-sale endorsement. The majority of these applicants were restaurant locations seeking to convert to brew pub operations and thereby satisfy tavern requirements as an off-sale site. The vast majority were also suitable candidates with established track records for responsible beverage alcohol service. It is probable that many would not have proceeded if every other applicant did so, for example. But determining a process for rational selection of the "successful" applicants was the daunting task facing the Authority. The outcome of even the most well-intentioned regulatory review process could never fully satisfy the legitimate expectations of all the parties. Continuing liquor outlet regulation in this manner is simply not a sustainable option.

Public Consultations

A. Process

In order to obtain a representative sense of industry views on off-sale grant processes, an invitation to participate was sent to all existing permittees with off-sale endorsements in the 4 major cities. In addition, brew pubs without off-sale endorsements were contacted as were recent applicants for off-sale endorsements in the 4 major cities. A list of those consulted is attached as Appendix "B". Follow up letters were also sent to encourage maximum response. The majority of personal consultations took place in July and August in Regina and Saskatoon. In addition to in-person interviews, a number of interested individuals provided input by way of written commentary and/or telephone conversations. The most recent of these took place in December 1999. Interested parties were encouraged to express their views with respect to the existing system and any inadequacies and/or strengths they perceived with it. In addition, parties were encouraged to offer suggestions for improvements and to make specific commentary on both the population and distance requirements currently in place.

B. Consultation Content

As most parties consulted had clear commercial interests at stake, the content of their responses was in large measure to be anticipated. Those operators currently holding the off-sale endorsement expressed at least some degree of satisfaction with the existing rules. They highlighted the disruption which would occur, both economically to existing operations and socially, with respect to service to minors and over-service concerns, if a huge proliferation of off-sale endorsements were allowed.

Other parties, anxious to gain entry to the system, expressed criticisms of restrictions on the basis that the market should decide which operators succeeded or failed and that the role of economic regulator was inappropriate to the Authority. Several of these parties emphasized the sanction abilities of the authority to enforce social responsibility regulations and emphasized the role of the Inspections Branch of the SLGA in monitoring business practices of its permittees.

Appropriate controls for the access of minors, in particular, to beverage alcohol service was raised as a concern. Limiting off-sale endorsements to age-controlled premises was seen as appropriate by most parties consulted.

A representative sampling of commentary presented by various parties is appended as Appendix "C".

Appropriate Role for Authority

The discipline of administrative law provides for self-contained regulatory regimes in many areas of modern society. The Canadian Radio and Television Commission ("CRTC") is an example of a federal regulatory body which controls and supervises

communications activity across Canada. The granting of licences and conditions affecting those licences are established and supervised by a specialized commission dealing with that specific function. The operation of the Highway Traffic Board, provincially, is a further example. These various administrative bodies and/or quasi-judicial tribunals, specialize in the setting and enforcing of rules for specific industries or endeavours.

Similarly, the Saskatchewan Liquor and Gaming Authority has, amongst other matters, responsibility for the regulation of the production, sale and distribution of beverage alcohol products in Saskatchewan. Its authority for rule enforcement derives from The Alcohol and Gaming Regulation Act and The Alcohol Control Regulations, 1994. The underpinning of this legislation is that there is an appropriate role for a regulatory agency with respect to ensuring societal norms are safeguarded with respect to the sale and consumption of beverage alcohol. Few would dispute the proposition that there ought to be rules preventing against the over service of individuals who have already consumed more than an appropriate amount of alcohol. Similarly, few would dispute that those below the age of 19 should not be present in and consuming alcohol at premises where the service of alcohol is the primary focus of business. These are legitimate roles which require appropriate rule formation and rule maintenance. To the extent that existing legislation and regulations reinforce these societal objectives, they are fully defensible. Where these rules wander into economic regulation, however, they are not.

It is also arguable that curtailing a proliferation of off-sale endorsements would be a legitimate approach to enforcing social responsibility concerns. It is an understandable concern that any liberalization of existing rules should address the possibility that hundreds, as opposed to dozens, of additional off-sale sites would conceivably become available in the major cities. Adding to the concern is that the majority of these sites would normally permit the presence of minors. There are, on the other hand, good public policy arguments for making off-sale facilities available in most areas of large urban centers. The extent to which the Authority and police services can monitor their activities, however, must also be brought into consideration. From a regulatory point of view the rationale for any liberalization of current rules must take into account appropriate social responsibility concerns and the Authority's ability to enforce these.

CRITERIA FOR EVALUATION OF OPTIONS

Any proposals for regulatory or legislative reform must be measured against a set of objective criteria. In assessing strengths and weaknesses of proposed options, I have identified the following criteria as bench marks for that evaluation:

- ➔ clear, predictable rules
- ➔ a transparent, fair and timely review process for applications
- ➔ enforcement of social responsibility concerns
- ➔ minimize delays and legal challenges in permitting process
- ➔ ability to meet changing market place needs and demands for off-sale service
- ➔ consistency with the principles of regulatory reform
- ➔ appropriate transition phase to allow for adjustment to any new process or permitting arrangement

POLICY OPTIONS

The consultation input I received resulted in a number of policy recommendations coming forward. These have been appended to the Report as Appendix "D". Many of the options are clearly irreconcilable.

I have grouped and analyzed the suggestions made to me, as well as my own assessments of possible alternatives, under five broad categories as follows:

1. Retrenchment

- ➔ allow only hotel taverns to be eligible for off-sale endorsements
- ➔ grandfather other taverns, including brew pubs, holding the off-sale endorsement
- ➔ eliminate the brew pub category for off-sale eligibility on a go forward basis
- ➔ remove the population restriction and distance requirement

Advantages:

- ➔ ease of inspection function and probability of enforcement high (no transition phase required)
- ➔ expedient application process since only hotels could apply and objections likely to be minimal

Disadvantages:

- ➔ does not meet changing market circumstances and does not allow for future flexibility
- ➔ would be perceived as unfair given previous extensions of the off-sale endorsements to the brew pub category
- ➔ since hotels are unlikely to locate in suburban areas, lack of service to outlying suburban areas

2. Status Quo

- ➔ continue to allow both hotels and brew pubs to be eligible for the off-sale endorsement
- ➔ retain existing distance requirement and population caps for Regina and Saskatoon

Advantages:

- ➔ high assurance of enforcement of social responsibility concerns
- ➔ no need for transition

Disadvantages:

- ➔ likely to continue cycle of legal challenges and very high cost to applicants and SLGA (ultimately the taxpayer)
- ➔ lack of flexibility to meet changing market needs
- ➔ limited availability of off-sale in suburban areas

3. **Moderate liberalization**

- ➔ raise population limits to allow for an increase of 20% by population
- ➔ eliminate distance criteria
- ➔ implement clear brew pub eligibility criteria minimum production quotas, percentage of total of sales, availability of alternate product lines, etc

Advantages:

- ➔ would allow incremental increase to number of establishments eligible for off-sale thereby allowing some flexibility to changing market needs
- ➔ not disruptive to existing operations and requires minimal, if any, transition period

Disadvantages:

- ➔ marginally able to meet changing market needs
- ➔ will continue cycle of legal challenges, expense and delays to applicants as well as SLGA
- ➔ not a predictable, clear and transparent review process

4. **Deregulate Off Sales Market to all Age-restricted Hotel and Brew Pub Taverns**

- remove population requirements
- remove distance requirements
- allow all age-restricted brew pubs and all hotel taverns to be eligible for off-sale endorsements (allow market to decide which locations flourish)
- establish and enforce a clear set of brew pub eligibility requirements to ensure integrity of that permit category

Advantages:

- create a clear transparent licensing process where all applicants in the tavern category (hotel or brew pub) will be eligible for endorsement
- removes likelihood of substantial legal challenges, with attendant court and administrative costs to determine outcome of applications
- although likely to modestly increase number of off-sale sites, unlikely to produce considerable strain on inspection resources or social responsibility concerns
- would allow new and existing hotel with eligible taverns to apply for and/or delete the off-sale endorsement as their market conditions change

Disadvantages:

- new off-sale sites may have an economic impact on existing locations
- modest, if any, increase in inspection costs

5. **Full Deregulation**

- all liquor permitted sites would be eligible for off-sale endorsements (this would include all permitted restaurant and special use locations)

Advantages:

- very flexible to changing market needs
- very convenient to consumers

Disadvantages:

- would result in situation where off sale became available at hundreds of sites which normally allow minors to be present
- would result in proliferation of number of sites where off-sale became available and result in considerable social responsibility concerns
- would make routine inspection for regulatory compliance very expensive and/or virtually ineffective

Recommended Option

In reaching a conclusion with respect to a recommended course of action, I have attempted to balance competing commercial interests and market needs with legitimate regulatory concerns for social responsibility. I am of the view that the most appropriate course would be to deregulate the off-sales market to include all age-restricted hotel and brew pub taverns (Option 4).

Simple retrenchment is unworkable given changes in societal demands for consumer choice and service. Option 1, going back in time, is plainly impractical.

Full deregulation (Option 5), to extend off-sale endorsements to all liquor permitted sites, would be extremely problematic. Off-sale service would become available at sites where minors would normally be present. This would clearly create unnecessary confusion and conflicting signals to those under 19 years of age. Moreover, with the number of sites hugely expanded, the ability of police and liquor inspectors to adequately monitor compliance would be very seriously undermined.

At the other end of the spectrum (Options 2 and 3), an option which leaves the SLGA in the inappropriate role of economic regulator, would prove similarly unsatisfactory. Commercial operators have repeatedly expressed their frustration that rules are not clear. They complain of delays created from competitors challenging applications, resulting in seemingly endless Commission hearings and subsequent judicial reviews.

This escalating incidence of legal challenge is a predictable outcome for two reasons: First, the economic rationing rules (population caps and distance restrictions) pit operators against one another for limited endorsement availability. Second, existing legislation encourages the ability of operators to throw procedural blocks before other commercial competitors by filing objection notices. The result has been an increasingly litigious environment which from all accounts is frustrating and counter-productive to those involved.

The recommended option will see the removal of population and distance restrictions from regulation. The market will ultimately decide which of these sites succeeds or fails. Criteria for hotel tavern eligibility for off-sale endorsements in urban centers are well developed. The same cannot, however, be said of the brew pub tavern category. Their age-restricted focus has been entrenched, but other criteria have not been fully developed. In order for the recommended option to prove viable, considerable short term effort must be dedicated to this matter by the SLGA. There must be clear expectations of what licensing thresholds a brew pub must meet in order to qualify for the brew pub tavern category. i.e. production limits, percentage of sales, number of product lines and other benchmarks which a brew pub must meet in order to qualify under that category as well as retain its permit status. These must be in place before other regulatory changes with respect to distance requirements and population limits are put into effect. It is certainly conceivable that these be developed over the next few months, on a dual track with regulatory amendments, and that the new regulatory regime could be in place in the

relative near term. I hesitate to target an effective date more specifically, appreciating the considerable work which must be done to meet Cabinet committee approval requirements. The Minister, should she be amenable to these recommendations, will be in a better position, in consultation with the SLGA, to determine more precisely the transition time needed to put new regulation into effect.

A related recommendation I would make is that consideration be given to legislative changes to the commission hearing process. More specifically, I recommend an amendment to Section 16 of The Alcohol and Gaming Control Act, to give the Licensing Commission the authority not to force a public hearing where objections brought forward are "frivolous and vexatious". Ontario legislation, for example, has contained this authority for a number of years. The Ontario liquor licensing regulatory body has interpreted this legislative provision as a basis to disallow objections to applications made by competitors in the same competitor class. It must be said that the objection process allows any individual in society to oppose a given permit application due to zoning concerns, concerns over an applicant's previous compliance track record and the like. As such, it is a valuable safety valve. Where it is used by competitors to block rival applicants, however, it amounts to an abuse of process. The Licensing Commission, on the basis of an objector's documented complaint, ought to have the discretion not to force a review hearing, which Section 16 of the Act currently requires, with attendant process delays, where such motives are clearly evident.

The hospitality market place is an ever-changing one. A number of hotels in particular have chosen to drop their off-sale endorsements and even their tavern permits in favour of lounges more appropriate to their clientele needs, for example. It makes little sense, from a commercial point of view, to force such outlets to retain their endorsements solely from a concern that population caps would forestall their future eligibility and not allow them to reverse that decision should business needs change.

Similarly, it would certainly be seen as odd – at the very least – that a new full-service hotel would not be eligible to apply for a tavern permit with off-sale endorsement simply because of arbitrary population restrictions.

It is noteworthy, as a further reference point, that no other provincial or territorial government in Western Canada assumes the role of economic regulator with respect to off-sale endorsements. There are, of course, very considerable differences amongst the jurisdictions. The common element in other jurisdictions, however, is that they allow off-sale to specific classes of permit types. They do not then attempt to place artificial limits and boundaries around and within these classes.

Recommendations

1. That the SLGA move quickly to develop, disseminate and enforce comprehensive criteria for the Brew Pub tavern category (production limits, percentage of sales, number of product lines available, etc).

This will ensure that Brew Pubs adhere to transparent and measurable criteria in order to retain their permit status

2. That the off-sale endorsement be made available to all age-restricted hotel and brew pub taverns by amending Section 29 of The Alcohol Control Regulations, 1994 to delete current population caps and distance requirements (subsections 3 and 4 respectively).

This regulatory change will remove the SLGA from the role of economic gate keeper. It will allow the market to decide which operations are meeting the needs of consumers. It retains age-restricted taverns as the sole endorsement category, thus reinforcing societal concerns over inappropriate access of minors. By limiting the endorsement in this manner, unbridled proliferation is unlikely and existing inspection staff ought to be able to monitor regulatory compliance. A modest increase to inspection staff could be considered if future circumstances so warrant. Finally, the need for any extended transition period is minimized given that substantial overhead costs of both tavern types will likely limit significant expansion in the number of market entrants.

3. Amend The Alcohol and Gaming Regulation Act, at the next opportunity, to give discretion to the Licensing Commission not to force mandatory hearings to consider objections of a "frivolous and vexatious" nature by parties in the same competitor class as the applicant.

This is the approach which has been followed by the Ontario liquor regulatory body for a number of years. It prevents competitors from bringing forward procedural blocks designed to thwart market entry by potential rivals. It would leave untouched the right of members of the public to bring forward objections based on other concerns. It is anticipated that such an amendment will result in a marked decrease in application processing time, as well as the number of regulatory hearings.

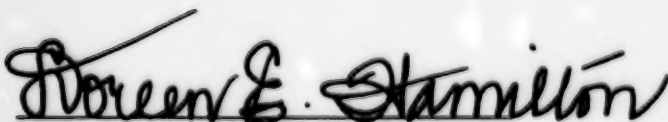
APPENDIX "A"
APPOINTMENT

Whereas pursuant to section 4 *The Government Organization Act*, I have been assigned responsibility for the administration of *The Alcohol and Gaming Regulation Act*,

And whereas pursuant to section 16 of *The Government Organization Act*, I have authority to appoint an advisory committee for a special purpose associated with performing any of my duties.

I accordingly hereby appoint Myron Gulka-Tiechko of Regina, Saskatchewan to act as an advisory committee subject to the following terms:

1. The purpose of the appointment is to conduct a comprehensive study and submit recommendations, (hereinafter referred to as "Review") with respect to the granting of off-sale endorsements in Saskatchewan pursuant to *The Alcohol and Gaming Regulation Act* and *The Alcohol Control Regulations, 1994*.
2. The Review shall include:
 - a) a study of the underlying policy, current legislation and regulations, and existing process with respect to the granting of off-sale endorsements, with emphasis on the larger urban centres;
 - b) an assessment of the needs of the hospitality industry, an analysis of market conditions, and the broad regulatory mandate of the Authority;
 - c) recommendations, if any, to alter the policy, legislation and regulations, and process with respect to the granting of off-sale endorsements.
3. The terms of reference appended to this appointment form part of this appointment.
4. No compensation is to be paid to Myron Gulka-Tiechko.
5. Myron Gulka-Tiechko will be paid his expenses and disbursements necessarily incurred in the course of his review, at the same rate as afforded members of the public service for Saskatchewan.
6. The term of the appointment is from April 1, 1999 to December 31, 1999.



Minister responsible for
The Alcohol and Gaming Regulation Act.

TERMS OF REFERENCE

During the 8 year period in which brew pub tavern permits have been eligible for off-sale endorsements, the grant of these endorsements has become a matter of significant competition and serious contention in the larger urban centers, to the extent that the regulator is consistently involved in balancing conflicting interests. During this period, by far the largest number of requests for such endorsements has been made by brew pub operators, or potential brew pub operators.

The intense degree of competition, and the large number of brew pub applicants in a domestic beer market which has been flat with only modest levels of growth projected, raises doubt as to the effectiveness of the existing criteria and processes surrounding the grant of off-sale endorsements.

Consequently, as Minister Responsible for the Saskatchewan Liquor and Gaming Authority, I am appointing you to conduct a review with respect to the policies and procedures surrounding the grant of off-sale endorsements, with particular emphasis on the larger urban centers in the province of Saskatchewan, and to provide me with a completed report and recommendations by no later than December 31, 1999.

It is anticipated that the review will include oral and/or written submissions from:

- i) representatives of the hospitality industry including hotels, restaurants, brew pubs and taverns;
- ii) existing holders of off-sale endorsements;
- iii) current applicants for off-sale endorsements;
- iv) interested members of the public;
- v) the Saskatchewan Liquor and Gaming Licensing Commission, and;
- vi) the Saskatchewan Liquor and Gaming Authority.

It is intended that you will determine your own practice and procedures in order to conduct your analysis and may make any recommendations you consider appropriate regarding the regulation of the off-sale market, provided that for the purpose of this review the continuation of some form of regulatory regime for off-sale will be assumed. In this context the Review shall consider the following issues:

- In the 7-8 year period since the off-sale endorsement was made available to the brew pub permittee there have been many changes and developments such as:
 - The majority of applications for off-sale endorsements have been made by brew pub permittees or parties seeking a brew pub permit to become eligible.
 - The domestic beer market in recent years, at present, and the foreseeable future, has been flat with only modest levels of growth projected.
 - Changes in technology have reduced the capital costs required for entry into the brew pub business.
- Consider the impact upon the regulatory processes of these and other changes.

- Determine whether the limited criteria which defined and regulated the brew pub category are still applicable and effective or whether additional criteria and requirements may be more applicable, i.e. a population limit, a minimum production requirement; a requirement for operation as a brew pub for a period (2-3) years prior to eligibility for off-sale endorsement.
- With respect to an off-sale endorsement, in consideration of the lack of market growth in the domestic beer market;
 - Does the present population criterion remain valid as the sole determinant as to the availability of an off-sale endorsement?
- With respect to the current processes of SLGA for determining and granting an off-sale endorsement;
 - Are they efficient and effective?;
 - Does the treatment of off-sale as an endorsement adequately recognize the significance of this grant within the industry, or would the processes which pertain to the grant of a permit be more appropriate?
- With respect to categories of permits eligible for off-sale which categories were originally intended to represent significant investment requirements (hotel and brew pubs);
 - Are the present permit categories still appropriate?
 - Does the availability of an off-sale endorsement artificially induce an increased number of applications for brew pub permits, relative to the demand for such an enterprise?
- And such other issues and perspectives as may be raised during the consultation process.
- To provide the results of the review in the form of a report to me along with such recommendations as are considered appropriate, by no later than December 31, 1999.

April 23, 1999

APPENDIX "B"

LIST OF PARTIES CONSULTED WITH DURING SASKATCHEWAN OFF-SALE REVIEW*

Licensing Committee of the Hotels Association of Saskatchewan (Larry Bird, Bill Nelson, Wayne Chophonis, Norm Kish, Sam Boychuk)

Bushwackers Brew Pub, Regina (Bev Robertson)

Lanigan Enterprises, Regina and Moose Jaw (Marty Lanigan and Laurie Lanigan)
Brewster's Brewing Company and Restaurant, East Victoria, McCarthy Boulevard,
Regina and Cornerstone Inn/Brewster's Brew Pub, Moose Jaw

Empire Hotel, Regina (Larry Krulak)

Regina Travel Inn, East Victoria, Regina (Shawn Ng, and Don McCallum)

Mabel's, Regina (Roy Gaebel, Royce Gaebel)

Jeffrey Lee, MacPherson, Leslie & Tyerman law firm on behalf of the Dunn Group

John B. Peterson, Surrey, B.C., on behalf of Clark's Crossing and an owner of Fox n' Hounds, Saskatoon

Saskatchewan Liquor and Gaming Licensing Commission - (Colleen Wilson, Chair, Allan Oliver, Vice-Chair; Vi Kyliuk, Elaine Driver, Michele Wilde, Gilbert Pelletier)

Hon. Glen Hagel, Speaker of Legislative Assembly, MLA, Moose Jaw North

Barry R. Armstrong, Bonzinni's, Regina

Hugh Perentes, Houston Pizza, Regina

Regina Travelodge, Regina (Steve Whelan)

Dave Dunn, Regina

Four Season's Restaurant, Regina (George Yannitsos)

Sand's Hotel, Regina (Tom Cochraine, Rick Roman)

Chiller's Brew Pub, Moose Jaw (Chuck Cole, Andy Shepherd)

*In a number of cases several individuals were present to represent a specific permittee. In most cases only the main spokesperson has been identified by name.

Jim Weiss, Hub City Bar Line Supply, Saskatoon
National Hotel, Prince Albert (Russ Williams)
Bridges Ale House, Saskatoon (Trent Koehler)
Western Brewer's Association, Vancouver, B.C. (Karen Netherton, Greg D'Avignon)
Greg Dunn, Bonzinni's Brew Pub, Regina
Nancy Lockhart, Fox & Hound's Pub and Brewery, Saskatoon
John Cunningham, Fox & Hound's Pub and Brewery, Saskatoon
Kevin Kasha, Last Straw and Maguire's, Regina
Gord McCormick, Maguire's and Clarke's Crossing, Saskatoon
Peter Kufeldt, Maguire's Irish Pub, Saskatoon
Kevin McCutcheon, Barley Mill Brew Pub, Regina
Perry Dunn, Barley Mill Brew Pub, Regina
Delbert Dunn, Last Straw Brew Pub, Regina
Clint Thompson, Last Straw Brew Pub, Regina
Rick deGeer, Carlisle
Charles Wertman, Vancouver (Saskatoon Quality Inn)

WRITTEN SUBMISSIONS

Moose's Rest Ltd. Sports Bar, Moose Jaw (Robert Keens)
Ms. Pat Lorjé, MLA, Saskatoon Southeast
Coachman Inn, WC Food Services Inc. (Wayne Clement)
Best Western Seven Oaks Inn, Regina (Len Lawson)
Micro Pub Systems International Inc., Rochester, New York

APPENDIX "C"

DETAILED CONSULTATION CONTENT

The following is a representative of the comments expressed during the consultation process. They have been grouped for ease of reference. Although criticism of regulations was a common theme, there was no primary solution put forward. Many of the comments cannot be reconciled with one another.

With respect to the SLGA:

- The current system of regulations has created a "moving target". Businesses aren't clear what the rules are and the rules keep changing
- The regulations have become unclear because of many exceptions to the system
- Business owners do not know where they stand
- There appears to be indecision within the Authority
- There is too much waiting when it comes to the application process

Who Should Be Eligible?

How long, if at all, should they have to be in business before becoming eligible for an endorsement?

- Applicants should be rated according to the highest potential to make money
- Applicants who have run the primary business for a certain period of time would be preferable because it ensures that establishments are solid businesses; this is the real commitment
 - A variety of waiting periods for off-sale endorsements were suggested, ranging from six months to five years
 - If a minimum time in business were implemented, it should also apply to hotels
- Waiting periods are unfair because it ties an owner's hands for a period of time
- Hotels should have the priority when endorsements are available

- Hotels “deserve” the endorsement as a reward for the investment made to the community and the taxes paid to the city and province
- Long term investment to community should be recognized
- Off-sale endorsements should only be available when you buy a business that has one
- Priority should go to under serviced areas of a city
- Priority should be given to those who have held permits for many years without infractions

Open vs. Closed market

- A little competition is a good thing – it keeps quality and service up and prices down
- There should be an open market with no economic radius restriction
- Off-sale outlets could not survive on their own
- Opening the market even a small amount will have a slippery slope effect
- There needs to be a way to make sure that there are not off-sale outlets on every corner
- Do not privatize – an over-abundance of licenses would benefit no one
- A wide open market will merely create “big buyers” such as grocery stores who will run out local businesses
- Do not allow a fully open system, but allow all brew pubs to have off-sale

Concerns with current system

General:

- The main problems in the current system occur in its "roots" rather than in the regulations themselves. Old issues need to be cleared up.
- There needs to be some way to ensure that the primary business is successful. "Off-sale" is an add-on privilege
- A clearer application and decision-making process is needed
- More endorsements are needed – loosen the distance restriction
- It is very difficult to regulate the brew pub industry
- The current population quota is too generic – it should take zones and areas into consideration
- There needs to be a change in mindset – the process should be seen as business relationship

Brew pubs:

- Establishments that aren't brewing much beer need to be dealt with accordingly
- Giving brew pubs off-sale endorsements takes business away from the downtown core
- Brew pubs have a monopoly on the market and don't need to sell off-sale
- Allowing brew pubs to sell off-sale erodes other businesses
- The investment of brew pubs is unfair since it is much lower than for a hotel
- Brew pubs are usually neighbourhood establishments and therefore are more likely to know their clientele. Therefore, they would also be more likely to know who the minors are

Hotels:

- There is concern that some brew pubs are not operating as true brew pubs, however, there are some hotels which are selling off-sale but not renting any rooms

- if a new hotel comes to town and is willing to build many rooms and make a great investment in the community they are not eligible to get an off-sale endorsement. Is this fair?
 - No. They should get off-sale
 - No. They should have priority when a new endorsement comes available
 - Yes. New hotels should have to compete for the endorsement
 - This should not be a concern because you do not see hotels holding back on their plans to build just because they cannot receive an off-sale endorsement
- it isn't fair that a "new" hotel is exempt from the distance requirement but an existing hotel which wants to apply for an endorsement is restricted from doing so.

Use:

- An establishment should have to use their off-sale endorsement or have it taken away

Praises for current system

- "If it isn't broken, don't fix it" – like the regulations as they are
- No change is required
- A brew pub is a major investment and therefore deserves the off-sale endorsement
- Brew pubs serve areas that are not served by hotels
- The clause which indicates the Authority's flexibility in awarding off-sale endorsements when market conditions warrant is liked
- The population quota is supported
- The latest tendering process was very fair and comprehensive

Restaurants

- Restaurants should have right to off-sale to their clients too
- Restaurants should be given same "level playing field" as competitors
- Restaurants are not age-restricted sites; extending off-sale to restaurants would be an irresponsible proliferation and impossible to properly monitor

Other Concerns

- Lifting the population cap would be scary – the market is already saturated with off-sale stores
- A minimum time period before getting an off-sale endorsement would not be preferable because a brew pub could not survive it's first year without either the endorsement or VLT's (there is currently a waiting period for VLT's)
- It is unfair that one company should hold numerous endorsements
- Competition reduces costs which can increase social risks (overconsumption)
- There is a serious concern with restaurants converting to brew pubs with very little investment – this feels like a “slap in the face” to hotel owners
- Commercial brewing companies are concerned that expanding brew pub numbers will erode their market share, resulting in lost jobs and stranded assets

APPENDIX "D"

RANGE OF OPTIONS ARISING FROM CONSULTATIONS

The following options summarize the major alternatives put forward during the consultations and/or developed through additional research.

A. Deregulate the off-sale endorsement system altogether – allow any permittee, including restaurant permittees, to sell off-sale

Cons

- Could have social repercussions
 - Sale to minors and overservice
 - Increased drinking and driving
- Could affect municipal areas
 - Traffic, noise and parking

Pros

- Creates a fair market for new entrepreneurs (no longer limited by population)
- Could be an incentive for bigger businesses to develop in Saskatchewan
 - The endorsement would be like a bonus for providing a service to the community
- Avoids government responsibility
- Market would allow only the serious businesses to survive

B. Allow only hotels to sell off-sale

Cons

- Less service to residential areas
- Increased risk of drinking and driving as consumers must travel a further distance to purchase alcohol

Pros

- Hotels would be more likely to comply with the regulations because they have a big investment
- Would ensure that the off-sale is not the primary revenue generator
- Revenue allows hotels to upgrade facilities

C. Allow all brew pubs and hotels to sell off-sale only when a specific set of criteria is met

1. Criteria must be cut and dry so that everyone knows the requirements
2. Suggestions include:
 - a. Specific criteria needed for brew-pub definition:
 - i. Minimum investment in equipment
 - a required size of brewing equipment (8 barrel, 10 hectolitres)
 - ii. Quantity of product produced
 - a minimum amount to be brewed
 - iii. Quality of product produced
 - iv. 50% of revenue must be from primary business, not off-sale
 - b. Specific criteria for the qualification of off-sale
 - i. A certain investment would automatically qualify for an endorsement
 - c. Criteria should also be market specific
 - i. An investment in a smaller centre would not have to be as high as in a major urban centre

Cons

- Slippery slope is a possibility
 - Once brew pubs and hotel taverns are allowed off-sale, other permitted establishments may want it too
- Increased business could have social repercussions
 - Sale to minors and intoxicated parties
- Could affect municipal areas
 - Traffic, noise and parking
- Requires stronger compliance enforcement
- Cannot take endorsements away from permittees who currently possess them
- Could create hostility from permittees who have invested a great deal of money in proposals and court cases

Pros

- System can be regulated to a small extent
- Avoids government role as a gatekeeper
- Fairness to entrepreneurs
- Could be an incentive for bigger businesses to develop in Saskatchewan
 - The endorsement would be like a bonus for providing a service to the community
- Market would dictate how many off-sale establishments would survive
- Will "weed out" less serious applicants

D. Limit types of liquor sold at off-sale

1. Only selling upscale imported and craft beers
 - This could include beer brewed at other locations

Cons

- Cannot revoke off-sale from permittees who currently possess the endorsement
- Provides less service to the community

Pros

- Serves the same market as the craft beer industry
- Could stimulate the craft beer market

E. Limit endorsement availability by population

1. Retain the current restriction of one per 12,000 in populations of 100,000

Cons

- Limited opportunity for entrepreneurs and investors
 - Can open a brew pub or hotel but do not necessarily receive the off-sale endorsement
- Unbalanced service to the market
 - Some areas have too many off-sales, others are not well served
- Difficult to establish who should receive an available endorsement if more than one person applies

Pros

- Creates a method for limiting the number of endorsements

2. Change the limit to allow more endorsements per population

Cons

- A band-aid solution: this may temporarily ease the situation but pressure will continue to be placed on the Authority to keep widening access
- Does not solve the problem of the Authority's position as "gatekeeper"

Pros

- Could provide more convenience to the public
- Would introduce more competition to other off-sale outlets

F. Limit number of off-sales per municipal zone

1. Use a similar system that city planners use
2. Allow a certain number of endorsements per zone depending on various criteria
 - a. Possible criteria to establish zones
 - Physical and psychological barriers that define primary trade area
 - Traffic generators and barriers
 - Time taken to reach area

Cons

- Does not solve the problem of deciding which applicants would qualify
- Competition would merely be for each zone as it presently is for the whole city

Pros

- Provides for a more equal distribution of off-sale outlets
- Provides better service to the public
- Less concentration of off-sale endorsements in over-served areas
- Decreases social concern of drinking and driving

G. Limit brew pub eligibility and/or off-sale endorsement eligibility by setting a minimum production standard

Cons

- Difficult to establish an appropriate minimum production level
- Must also have a control in place which ensures that the beer produced is being sold, not merely stored
- Numbers could be manipulated
- Compliance enforcement required

Pros

- Ensures that brew pubs selling off-sale are in the primary business of selling craft beer, not merely using the cover of a brew pub as a vehicle to the off-sale endorsement

H. Distance Requirement

1. Maintain current restriction of 1.6 km between off-sales
2. Loosen current restriction – minimize distance required between off-sales

Cons

- May deter businesses from building in Saskatchewan
- If a hotel were to build in a high market area, they may not be able to get an off-sale endorsement because another establishment holds one nearby

Pros

- Helps to prevent a number of off-sale retailers from developing in the same area, therefore more service can be provided to other neighbourhoods
 - Decreases drinking and driving concern
 - Maintains a level of protection for existing businesses
3. Determine distance requirement by time traveled to location rather than by geographical radius

Cons

- Difficult to determine
- Roadways and traffic may change as areas develop

Pros

- Addresses argument that although two outlets may be within 1.6 km of one another they may not serve the same areas due to geographical barriers

I. Allow only successful permittees to keep an off-sale endorsement

1. Treat endorsement system like a franchise – an off-sale must meet certain sales quotas in order to maintain an off-sale
2. Treat endorsement system like a one year contract
 - a. If certain criteria are not properly followed the contract will not be renewed
3. If one off-sale is not meeting its quota allow for another off-sale endorsement in the city

Cons

- Possibility of permittees disregarding the regulations in order to stay competitive in the market
- Risk of bigger businesses monopolizing the market
- Places focus on the off-sale endorsement rather than the primary business

Pros

- If success of the primary permitted business were focused on rather than the off-sale itself, this method could ensure that only serious permittees were allowed an endorsement

J. Impose a probationary period for permittees

1. Permittee must run their primary business for a minimum length of time before they become eligible for an off-sale endorsement
 - a. Time period could range between 6 months and 2 years
 - b. Would include hotels and brew pubs

Cons

- Could anger those applicants who have spent time and money on recent proposals for permits and endorsements
- Permittees feel it would be difficult to maintain a business without the additional revenue from the off-sale outlet

Pros

- Ensures the permittee is interested in the primary business, not just in acquiring an off-sale endorsement
- Ensures the viability of the primary business itself
- Prevents the business from depending on the endorsement for survival

K. Use a grading system

1. Categorize the various types of establishments according to their priority to get off-sale endorsements. Priority could be determined by investment. i.e. Hotels would have the most priority, then brew pubs, then restaurants wanting to convert to brew pubs.

Cons

- Does not solve the problem of choosing between applicants
- Competition will merely be between applicants in each category as it is between all applicants now
- Some residential areas could continue to be under serviced

Pros

- Big investors would be rewarded accordingly for providing a service to the community
- If a new hotel chain were wanting to build in the city they would have a better chance of receiving an off-sale endorsement
- Could "weed out" less serious applicants since restaurant conversions would be the lowest priority

L. Clean up old class B licenses

1. Old Class B licensees feel that they should all be treated equally. Some of the old class B's were granted off-sale privileges as a grandfathering process - prior to 1995 brew pubs were not limited by the 1.6km radius restriction, and therefore many of them were eligible to have an off-sale endorsement. However, under the new regulations they are not eligible. They feel that they are entitled to the endorsement today, despite their proximity to other off-sale outlets, since they once were eligible.

Cons

- Does not solve the problem of the Authority acting as gatekeeper
- Only a temporary solution
 - Will clean up some problems but does not fix the system as a whole

- Slippery slope is possible – creates more exceptions to the regulations which weakens the entire system

Pros

- Eliminates a controversial issue which has been argued for some time

M. Delegate Commercial Liquor Permitting to Municipal Government (Forward all decisions to award off-sale endorsements to zone committees)

1. Each city or community would have a committee to determine whether more off-sale endorsements should be allowed

Cons

- Difficult to determine who should sit on such a committee
- Issue of choosing between applicants is not eliminated
- Municipalities would need additional financial resources to put into effect

Pros

- Recognizes that each community is unique in its needs – some areas may have too many off-sale outlets, others may be under serviced
- The community can determine what limits and restrictions need to be in place
- Off-sale endorsements are more likely to be placed in areas where they are needed

N. Use a ratio system

1. For every three hotels that have an off-sale endorsement, allow one brew pub to have an endorsement.

Cons

- Cannot take endorsements away from those who currently possess them
- Does not solve the Authority's problem of choosing between applicants – more than one hotel or brew pub may be applying for an endorsement at the same time
- Does not address under served or over served areas
- Can increase the risk of drinking and driving if endorsements are concentrated in non-residential areas

Pros

- Hotels have a bigger investment and are thus rewarded for it by having higher access to off-sale endorsements
- Hotels will not lose great amounts of off-sale revenue to brew pub competition
- Brew pubs will be eligible for off-sale endorsements but will not be able to monopolize the market
- Off-sale service will still be available to residential areas
- Aids the problem of new hotels wanting to build – they will have a better chance of receiving an off-sale endorsement

APPENDIX "E"

BREW PUB EVOLUTION

Brew pubs were introduced to Saskatchewan in the late 1980's. Although tied-house establishments were excluded by legislation, it was recognized that brew pubs would not pose a threat of monopolizing the liquor service industry. (In 1999 total brew pub on site-brewed sales amounted to less than 1% of total beer sales in the Province.) In fact, there were perceived positive effects to licensing brew pubs. Some of the touted benefits included the following:

1. The brew pub industry would provide new economic opportunities to Saskatchewan entrepreneurs;
2. Brew pubs could stimulate the beer industry, therefore increasing sales of other breweries in the province;
3. Spin-off benefits to other local businesses could result;
4. Brew pubs could supply communities not served by hotels;
5. Brew pubs could create a new market for quality special malts and could utilize Saskatchewan grains; and,
6. Brew pubs would provide a new variety of products to customers and fill a niche in the hospitality industry.

The introduction of brew pubs in Saskatchewan was seen as an expansion of quality choices to the consumer, not merely as widening access to alcoholic beverages. By that time, six other provinces had allowed brew pubs and had found that they were serving a particular niche in the hospitality industry.

When brew pubs were introduced they were closely regulated in order to protect social and economic interests. As is the case in any service of beverage alcohol, issues of service to minors and over-service were paramount. By limiting the number of brew pubs allowed in a given area, the viability and market share of existing establishments could be protected.

A number of policy restrictions were implemented over time because of a general concern of the proliferation of licenses. Such proliferation would threaten competition viability and increase social responsibility concerns. Those restrictions have been enumerated above.

APPENDIX "F"
BREW PUB AND OFF-SALE STATISTICS
(based on information dated December 1999)

1. Number of Brew Pubs in Saskatchewan (manufacturer's permit)
 - Regina - 6
 - Moose Jaw - 1
 - Saskatoon - 6
 - Prince Albert - 0
 - Swift Current - 1
 - Yorkton - 1
 - Total = 15

2. Number of Brew pubs in Saskatchewan that sell domestic off-sale
 - Regina - 2
 - Moose Jaw - 1
 - Saskatoon - 3
 - Swift Current - 1
 - *five brew pubs do not sell their own product off-sale

3. Number of Off-Sale Endorsements in the large urban centers
 - Regina - 12
 - Moose Jaw - 6
 - Saskatoon - 16
 - Prince Albert - 8